

Before the Public Utilities Commission
of the State of California



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Application of Southern California Edison
Company (U338E) for Approval of its
Energy Savings Assistance and California
Alternate Rates for Energy Programs and
Budgets for Program Years 2015-2017

A.14-11-007
(Filed November 18, 2014)

And Related Matters.

A.14-11-009
A.14-11-010
A.14-11-011

**COMMENTS OF THE OFFICE OF RATEPAYER ADVOCATES ON THE
ALTERNATE PROPOSED DECISION OF COMMISSIONER CATHERINE
SANDOVAL ON LARGE INVESTOR-OWNED UTILITIES' CALIFORNIA
ALTERNATIVE RATES FOR ENERGY (CARE) AND ENERGY SAVINGS
ASSISTANCE (ESA) PROGRAM APPLICATIONS**

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I. INTRODUCTION

Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure, the Office of Ratepayer Advocates ("ORA") hereby submits the following responses to Commissioner Catherine Sandoval's August 16, 2016 alternate proposed "Decision on the Large Investor-Owned Utilities' California Alternative Rates for Energy (CARE) and Energy Savings Assistance (ESA) Program Applications" ("APD").

The APD approves the modified applications of the four major Investor-Owned Utilities ("IOUs"): Pacific Gas and Electric Company ("PG&E"), Southern California Edison Company ("SCE"), San Diego Gas & Electric Company ("SDG&E"), and Southern California Gas Company ("SoCalGas") (collectively "IOUs" or "Utilities"); and, provides guidelines for the successful implementation and administration of their CARE and ESA low income programs.

II. DISCUSSION

The APD by Commissioner Sandoval addresses the four IOUs' applications to administer the ESA and CARE programs. The CARE program provides direct rate relief to low income Californians, while the ESA program seeks to reduce the energy burden of low-income households and improve their health, safety and comfort through the direct-install of energy efficiency ("EE") measures. As the APD states, in recent program cycles, "Both measure costs and program costs have increased while the energy savings per home treated remains flat."¹ ORA agrees with the APD that the key issue is how to effectively address the issue of decreased cost-effectiveness while remaining consistent with other program mandates, such as the statutory goal to offer EE treatment to all willing households by 2020.

One of the key differences between the APD and the PD by Administrative Law Judge ("ALJ") Anthony Colbert is the APD's determination to eliminate several key administrative rules such as the Three Measure Minimum, Installation Caps and the Go-back Rule and replace them with energy savings goals while providing the Program Administrators ("PAs") greater flexibility. The APD implements the use of an Energy Savings Goal for the IOUs with the expectation that the use of a savings goal will encourage the IOUs to seek hard to reach customers to participate in ESA, as well as provide meaningful services to customers.

ORA supports the general principal of using goals and targets to guide the PAs actions, while increasing their flexibility as to how they will achieve these goals. ORA notes that "These rules were put in place when budgets were smaller to ensure some minimum savings and distribute benefits equitably among low income households, and there were no other mechanism in place to ensure the utilities did not simply provide measures that had little value to customers."² In the absence of other mechanisms such as energy savings or cost-effectiveness

¹ APD, p. 34

² ORA Reply Brief to the ALJ's Ruling Requiring Responses to Additional Questions Regarding the Energy Savings Assistance Program (July 3rd, 2015), August 4th 2015, p. 6

targets, these administrative rules were seen as a tool to ensure that money was spent effectively and equitably. However, these administrative rules did not always have the desired effect of directing resources to their best use.

Targets need to be aligned with the end-goals of the program and need to provide a meaningful benchmark to drive results. Therefore, ORA recommends the following amendments to the APD regarding the energy savings target and the elimination of the Three Measure Minimum (“3MM”), and the Go Back Rule.

- The adoption of an energy savings target based on historical accomplishment is a good interim step, but the goal set by the APD should be increased to provide additional value. The Commission should examine the interim targets mid-cycle and refine the goals once the Goals and 2017 EE Potential Study is complete.
- The APD should adopt the Cost Effectiveness Working Group’s proposed Energy Savings Assistance Cost Effectiveness Test (“ESACET”) threshold of 1.0 now, to be implemented when the issue of which measures to exclude and how to account for administrative costs have been resolved.
- The 3MM should be eliminated, coupled with the inclusion of an ESACET threshold of 1.0.
- Adopt a roadmap to phase out the Go-Back Rule in the current cycle and require IOUs to implement appropriate strategies to target repeat service households

In addition, the APD introduces several other programs that are intended to facilitate ESA participation or enhance energy savings, but these programs could create unnecessary conflicts with other proceedings or may be contrary to existing statute.

- Low income customers may benefit from participating in dynamic rates or demand response, but they should not be required to participate as a condition of participating in the ESA program.

- Energy utility customers should not be responsible for subsidizing telecommunications devices (e.g. smartphones); if such policies are prudent, they should be addressed in the area of the Commission’s Lifeline policies or statute.

III. THE ADOPTION OF AN INTERIM ENERGY SAVINGS GOAL BASED ON PAST PERFORMANCE IS REASONABLE, BUT SHOULD BE REVISED ONCE DATA FROM THE 2017 EE POTENTIAL STUDY IS AVAILABLE.

ORA supports the general approach laid out in the APD, which involves setting targets and goals that PAs are expected to meet, while providing more flexibility to PAs as to how these goals are met. In that respect, the APD’s adoption of Energy Savings goals based on past program performance are a good first step. However, ORA is concerned that the goals set do not actually represent “a modest increase to prior program accomplishments”³ and will not require significant improvement by the IOU administrators. It is not clear that this is the intent of the APD, which states, “We think it reasonable to set energy savings targets at these higher levels given that we also give the utilities and programs implementers’ additional flexibility to achieve energy savings.”⁴ ORA recommends savings goals be set at a sufficiently high level as to maintain the past level of performance as a minimum benchmark.

The APD describes a process through which the Commission can adjust the goals mid-cycle based on the results of the 2017 EE Potential Study.⁵

ORA agrees that the 2017 EE Potential Study is a better basis for setting targets than past performance since past performance tells us nothing about whether PAs in the past were over-performing, under-performing or simply doing what might be expected. It is unclear whether a change in rules might reasonably be expected to improve the PA performance. The APD would be considerably strengthened by committing to revisit and revise the energy savings goals using

⁴ APD, p.46

⁵ “The Commission *may* consider adjustments based on the 2017 EE Potential Study in a mid-cycle update.” APD, p.47

the results of the 2017 EE Potential Study prior to the next application cycle. The current goals should be revised to reflect the expected bump in savings gained by the removal of the 3MM, and the Go Back Rule.

IV. THE COMMISSION SHOULD ADOPT THE RECOMMENDATION MADE BY THE MAJORITY OF THE ESA COST-EFFECTIVENESS WORKING-GROUP OF A TARGET 1.0 ESACET BEFORE THE NEXT APPLICATION PROCESS BEGINS.

In written comments, ORA joined the majority of parties in the Cost Effectiveness Working Group in recommending the adoption of a cost-effectiveness threshold of 1.0 using the ESA Cost Effectiveness Test (“ESACET”). While both energy-savings goals and cost-effectiveness targets are useful tools, the advantages of the cost-effectiveness working group’s majority recommendation of setting a cost effectiveness threshold based on the ESACET are two-fold. First, the ESACET includes energy savings and non-energy benefits. The non-energy benefits include benefits to the customer’s health, safety and comfort, which have traditionally been co-equal to energy savings as goals of the ESA program. Second, a cost-benefit test compares benefits to measure costs. In a world of limited resources, a cost-effectiveness target will encourage PAs to shift resources toward those measures that deliver the greatest benefits.

Combined with the greater administrative flexibility provided in the APD, a cost-effectiveness threshold would focus PAs on finding the best mix of measures and delivery strategies to achieve ESA’s twin goals of energy savings and non-energy benefits for low-income ratepayers. With a proposed five-year budget of nearly \$2 billion, an improvement of just 10 cents on the dollar would create an additional \$200 million in benefits for low-income Californians.

The APD should be amended to adopt the principal that ESA portfolios meet an ESACET threshold of 1.0, and require IOU ESA portfolios to achieve this threshold in their subsequent applications. The Commission can prepare the PAs for the changes necessary for achieving the ESACET threshold of 1.0 in the next program cycles by making a commitment to the 1.0 threshold now.

V. PROPOSED ELIMINATION OF THE THREE MEASURE MINIMUM RULE IS JUSTIFIED IF THE COMMISSION ADOPTS A COST-EFFECTIVENESS TARGET AND ENERGY SAVINGS GOALS.

The APD eliminates the 3MM and the Go-Back Rule. Each of these administrative rules was put into place for a distinct purpose. The 3MM rule was intended to encourage implementers to ensure that a minimum level of effective measures would be provided to a low income property. The Household Measure Caps and Go Back Rule were implemented for equity reasons with the goal of getting the ESA program to provide services to a greater number of low income households and achieve the State's goals of providing ESA to all willing households by 2020. ORA agrees with the APD that with proper interim IOU savings targets in place, and a commitment to the ESACET threshold of 1.0, the 3MM could be eliminated.

The 3MM, although a blunt instrument, was intended to ensure low-income households that received treatment through the ESA program were provided meaningful services to reduce bills and improve health and safety. A portfolio cost-effectiveness target can achieve the same objective of "meaningful treatment" while allowing implementers greater flexibility to deal with "on the ground" reality. In the interim period, before new portfolios with an ESACET threshold of 1.0 are implemented, an energy savings goal should provide some assurance that the utilities are maximizing cost-effective energy savings from each household.

The equity issues that were intended to be addressed through the Go Back rule are not adequately addressed through the implementation of interim goals and a move to an ESACET threshold. As such, the Commission should require IOUs to design strategies to effectively target repeat service.

VI. THE APD SHOULD BE MODIFIED TO ADOPT A ROADMAP TO PHASE OUT THE GO-BACK RULE IN THIS PROGRAM CYCLE AND REQUIRE IOUS TO IMPLEMENT APPROPRIATE STRATEGIES TO TARGET REPEAT SERVICE HOUSEHOLDS

The current Go Back Rule allows the IOUs to offer ESA treatment to households that were last treated prior to 2002, but does not allow these households to be counted towards the IOU goal of ensuring an opportunity for all low-income households to participate in ESA by

2020. The APD argues that eliminating the rule will make it easier for IOUS to target high-energy using households that have not been treated in many years and to visit homes that were treated before current water-energy nexus measures were developed.

ORA agrees that in the short run, elimination of the Go-Back Rule would open up new opportunities for energy savings to the IOUs, particularly in the case of high-energy using households that might not have fully current measures. However, the short-run advantages are outweighed by the disadvantages of implementing a new-round of ESA services without a proper plan as to how to maximize energy savings in retreated homes. Furthermore, the elimination of the Go-Back Rule could have the unintended consequence of diverting resources from the important statutory goal of treating all eligible households at least once before 2020. It is imprudent to eliminate the Go-back Rule *at this time*.

Therefore ORA recommends that the APD be modified to adopt a roadmap to phase out the Go-Back Rule. The PD should require IOUs to target repeat service households using the following strategies:

- Complete ESA treatment of homes unserved prior to 2002, prior to retreating homes serviced after 2002, unless new treatment is necessary to install measures that pose a health and safety risk;
- Assess households prior to treatment using previously collected data for retreatment households, in combination with the in person assessment;
- Tailor retreatment visits to the specific purpose identified for the return visit;
- PAs should identify from previous household records how many dwellings could use more or updated items, and target these items based on updated data, instead of showing up to untreated households “cold” without prior review;
- Target new and repeat service based on potential to replace high impact measures; and
- Reach as many households as possible by encouraging utilities to collaborate with community based organizations and municipal governments to distribute new items that

can be rapidly distributed (e.g. hose spray controls, toilet bricks, toilet leak detection kits, water and energy education materials).

The IOUs should prioritize any retreatment according to households that have the greatest potential for energy savings, as well as those with high energy burden and high energy insecurity. ORA also supports use of smart meter data to accomplish review of household energy and water use prior to visiting treated and untreated households to “remotely analyze opportunities for savings and best measures for particular households”⁶ as described in the APD.

VII. THERE IS INSUFFICIENT RECORD TO SUPPORT THE EXTENSION OF ESA/CARE BUDGETS THROUGH 2020. THE CURRENT ESA CYCLE SHOULD BE FIVE YEARS, ENDING IN 2019.

The APD extends the ESA/CARE budgets through 2020. The APD explains that the extension is appropriate based on the delay in writing the current decision, which was originally supposed to cover the years 2015-2017 and that a 2020 ending date will align the next budget cycle well with the 2020 ESA goals.

ORA recommends that the budget end in 2019, by extending the program authorization and funding levels from 2018 for an additional year.

Furthermore, the additional work needed from the Cost-Effectiveness Working group to make an ESACET target operational and the goals and potential data needed to update the Energy Savings Goals will be complete from mid-2017, providing an opportunity to complete the transition from a “rule-based system...to one that allows for more administrative flexibility to meet energy efficiency and savings goals.”⁷ A new budget cycle starting in January 2020 would be able to take advantage of these changes.

⁶ APD p. 63

⁷ APD, p.46

VIII. THE COMMISSION SHOULD NOT REQUIRE CUSTOMERS TO ENROLL IN A DYNAMIC RATE TARRIFF OR A DEMAND RESPONSE PROGRAM TO PARTICIPATE IN ESA.

The APD requires customers participating in ESA to enroll in either a dynamic rate tariff or a demand response program. It would be more appropriate to provide incentives for some customers to participate in demand response programs or time variant rate programs than to force customer participation. This requirement would put the utilities in the position of inappropriately encouraging a customer to sign up for rate designs that may not be advantageous to that particular customer. The APD's attempts to encourage participation in dynamic rate opportunities or demand response are commendable as potential mechanisms for allowing low-income customers to manage their bills while providing much needed peak-shaving benefits to the grid. However, as drafted ORA is concerned that the APD's requirement could have an adverse effect on some customers.

Public Utilities Code Sections 745 (b) and (c) prohibits placing residential customers on dynamic rates on a default or mandatory basis. The APD's requirement that participating households enroll in dynamic rates or demand response as a condition for ESA participation may be contrary to Public Utilities Code Section 739.1 (i) (2) for those customers with usage over 600% of baseline, who are obligated to participate in ESA as a condition of remaining on CARE. In effect, the APD would require all high usage customers to either enroll in dynamic rates or demand response when participating in ESA, or be removed from CARE. An entire segment of CARE customers would be required to participate in a rate design that may or may not be advantageous to them, contrary to statute, on time variant pricing rates. For example, Public Utilities Code Section (c) (6) provides that "Residential customers have the option to not receive service pursuant to a time-of-use rate schedule and incur no additional charges as a result of the exercise of that option." The APD does not provide the option for a CARE customer to opt-out of a dynamic rate or demand response program. That option either needs to be provided or the requirement to remove them from CARE be deleted.

The APD requirement that ESA participants must sign up for dynamic rates and demand response programs also creates challenges in terms of coordination with the ongoing residential rate design proceeding (Rulemaking12-06-013). The residential rate design decision (D.15-07-001) shall move all residential customers to default time of use (“TOU”) rates in the 2019 time frame, along with a comprehensive customer education and outreach program. The types of TOU tariffs to be used, along with the most effective methods for education and outreach are currently being developed by a wide range of stakeholders, including the customer advocacy organizations and utilities that have been active participants in this proceeding.⁸

IX. THE COMMISSION SHOULD ENSURE THAT THE BENEFITS OF ESA COMMON AREA MEASURES ACCRUE PRIMARILY TO LOW INCOME CUSTOMERS RATHER THAN PROPERTY OWNERS

The APD would allow ESA funding for 100 percent of common area measure costs in deed-restricted multifamily buildings and 80 percent of common area measure costs in non-deed dedicated multifamily buildings. The provision of ESA funds for common area measures in multifamily buildings raises the question of how to ensure that the benefits of these ESA expenditures lower the energy burdens of low income customers as required by statute. Because common area measures are generally master-metered, savings do not accrue directly to tenants as they do in cases where tenants pay directly for their energy. Rather, it is possible that the benefits of common area measures may accrue entirely to property owners, particularly in privately owned and non-deed dedicated multifamily buildings, unless there are program rules to ensure that the benefits accrue primarily to low income tenants.

The Commission should require that the benefits of ESA common area measures accrue primarily to low income customers and issue guidance to program administrators on what would constitute a sufficient showing that the benefits flow to low income customers. A useful model

⁸ PG&E, SCE, SDG&E, ORA, UCAN, C for AT, Siemens, and EDF have been participating in workshops on TOU rates pilots and Marketing, Education and Outreach efforts for Residential rate reform and moving to default TOU rates.)

for program rules and guidance is the Federal Weatherization Assistance Program (WAP), which requires grantees to demonstrate that the benefits of the program accrue primarily to low income tenants and includes flexible guidance for making such a showing.⁹

X. ENERGY UTILITY CUSTOMERS SHOULD NOT BE RESPONSIBLE FOR SUBSIDIZING TELECOMMUNICATIONS DEVICES (E.G. SMARTPHONES); IF SUCH POLICIES ARE PRUDENT, THEY SHOULD BE ADDRESSED IN THE AREA OF COMMISSION LIFELINE POLICY OR STATUTE.

ORA is concerned with the lack of record in this proceeding regarding the APD's inclusion of the cost of Smartphone devices in the CARE budget. Although the APD highlights an important issue for low income customers in terms of their ability to meaningfully connect to the internet, as well as take advantage of some web-enabled energy management technologies, these issues were not considered in the record of this case and the budgetary impacts have not been developed.

ORA recommends that the use of new applications for CARE and ESA customers be developed as described by the APD, for the CARE population that currently has access to smartphones. This will allow these innovative programs to be built and begin the refinement process, while the telecommunications policies regarding the subsidization of wireless communications devices and smartphones are addressed in various state and federal telecommunications forums.

⁹ Department of Energy, *Weatherization Program Notice 10-15A*, published April 8, 2010. Available at: <http://energy.gov/sites/prod/files/2015/12/f27/WAP-WPN-10-15a.pdf>. A copy of the agreement was attached to testimony by David Hepinstall (AEA) served by NRDC/NCLC/CHPC on April 27, 2015.

XI. CONCLUSION

ORA recommends the APD be modified to include the recommended changes described above.

Respectfully submitted,

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